

REMARKS/ARGUMENT

Upon entry of the foregoing amendments, claims 2 to 14 and 16 to 17 will be pending in the present patent application. Claims 1 and 15 have been canceled, without prejudice. Claims 2, 4, 12, 13, 14, 16, and 17 have been amended, without prejudice.

The claims have been amended such that old claim 12 is no longer a "method for producing" claim. Applicants' submit respectfully that, in view of the foregoing amendments, the Restriction Requirement should be withdrawn. To be fully responsive to the Restriction Requirement, however, Applicants hereby elect Group I, i.e., claims 1 to 11, and 13 to 14, drawn to a process of using the pharmaceutical product, *with traverse*.

The Action also requests an election of species for a particular species of the compounds included in formula I of the elected group. In response, Applicants hereby elect the species N-[(S)-2-diphenylamino-1-(5-oxo-4,5-dihydro[1,3,4]oxadiazol-2-yl)ethyl]-2-(2-methylaminopyrimidin-4-yl)-1H-indole-5-carboxamide (see, e.g., Applicants' specification at page 32).

Reasons for Traversal

Applicants respectfully request reconsideration of the Requirement for Restriction.

Whether restriction is proper depends upon whether a serious burden exists:

[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

(M.P.E.P. § 803 (8th ed., August 2001)). Significantly, the Action fails to make such showing. In this regard, Applicants submit respectfully that the Action has provided *no* evidence or reasoning to support the election/restriction requirement or to show that the requisite serious burden exists. Indeed, the Action is *completely silent* with respect to any allegation of a serious burden. Applicants respectfully submit that the examination of Groups I and II would, therefore, *not* present an undue burden on the Examiner because each claim in

Group II depends on the compound of claim 2, which is in Group I. Moreover, in view of the foregoing amendments, all of the claims are directed to a method for treating pain. Thus, searching Groups I and II together should not pose an undue burden on the Examiner. Accordingly, reconsideration and withdrawal of the election/restriction requirement or, in the alternative a modification thereof, are respectfully requested.

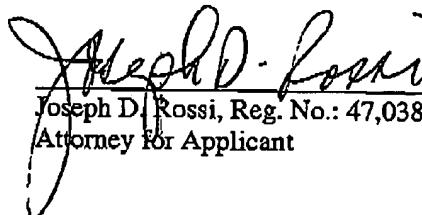
Applicants reserve the right to pursue the non-elected subject matters in one or more divisional applications prior to issuance of a patent on the instance application.

Conclusion

Applicants believe that the foregoing constitutes a complete and full response to the Action of record. Applicants respectfully submit that this application is now in condition for allowance. Accordingly, an indication of allowability and an early Notice of Allowance are respectfully requested.

The Commissioner is hereby authorized to charge the fee required and any additional fees that may be needed to Deposit Account No. 18-1982 in the name of Aventis Pharmaceuticals Inc.

Respectfully submitted,



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